

The Court in Bell Atlantic was faced with an entirely different set of facts than the ones here. Metricom offers an always-on, wireless connection to the Internet through a pre-selected Internet Service Provider Network, a private network, not the public switched network. In Bell Atlantic, the Court was dealing with calls to ISPs over the public switched network. The Court noted that under 47 CFR § 51.701(b)(1) "telecommunications traffic" is local if it "originates and terminates within a local service area," which is defined as "the switching of traffic that is subject to section 251(b)(5) at the terminating carrier's end office switch (or equivalent facility) and delivery of that traffic from that switch to the called party's premises." Local Competition Order, 11 FCC Rcd at 16015 (p. 1040); 47 CFR §51.701(d). The court then stated that "calls to ISPs appear to fit this definition: the traffic is switched by the LEC whose customer is the ISP and then delivered to the ISP, which is clearly the 'called party.'"

Here, there is no switching of calls because there is no switch and because there are no calls or called party. Standard modem users must reach their ISP by dialing a number utilizing the North American numbering system. The switches of their local telecommunications carriers then switch that traffic over the public switched network and deliver it to the ISP. In the case of Metricom, however, there is no dialed number and no use of the public switched network. (Tr. 48.) Instead, the Metricom Ricochet² user turns on his/her computer, clicks on the Ricochet icon and is connected to the Internet through his/her pre-selected Internet Service Provider Network utilizing Internet Protocol addressing. (Tr. 31, 32.) Metricom's router that delivers traffic to the various Internet Service Provider Networks is not the equivalent of a telecommunications switch. It does not switch traffic to or through central offices

or switch traffic to any point on the public switched network. Instead, it simply routes traffic over the dedicated lines connected to the pre-selected Internet Service Provider Network that contract for Metricom's services. (*Id.*)

In summary, Metricom's service is what the FCC has determined to be an "interstate access service." This is the traditional treatment that the FCC has given to the communication between an end-user and the provider of enhanced services.⁴ This is the treatment given by the FCC to carriers such as GTE that provide access to the Internet over DSL lines and it is also the treatment given by the FCC to communications between an end-user and its ISP over the local switched network.⁵

2. Metricom's Service Differs Greatly From Traditional Dial-Up Internet Access And, Therefore, An End-To-End Analysis Is More Appropriate.

In its testimony and briefs in Docket 99-0138, the Commission Staff advocated the position that the Commission should look at the communication between the end-user and the Internet Service Provider in determining jurisdiction. As previously explained, at that time the evidence presented showed that Metricom was the Internet Service Provider as well as provider of the wireless connection. Under Ricochet², however, Metricom does not provide ISP functions. (Metricom Ex. 2, Schellman Direct, p. 8.) Instead, Metricom provides end-users with always-on, wireless connectivity to the Internet through a pre-selected Internet Service Provider Network that resells Metricom's service. (*Id.* at 5, 9) Additionally, Metricom formerly was providing

⁴ MTS-WATS Market Structure Order, 97 FCC 2d 682, at 715.

⁵ Implementation of the local Competition Provisions in the Telecommunications Act of 1996, Inter-Carrier Compensation for ISP-Bound Traffic, FCC 99-38 at 16-17 (1999).

services to customers that allowed direct connections between end-users and local area networks or intranets. Some of those local area networks or intranets could have been located in Illinois. Metricom's Ricochet² service does not allow such direct connections. (Metricom Ex. 2, Schellman Direct, p. 9.) Therefore, even if one accepts the premise that it is appropriate to break down the communication into segments in determining jurisdiction, the unique nature of Metricom's service should lead to the conclusion that it is providing interstate service.

As the Commission is aware, ISPs generally acquire numerous virtual locations in a geographic area so that their customers may make a short, untimed call, when connecting to the ISP. In this case, however, the Internet Service Provider Networks contracting to resell Metricom's service are not establishing numerous virtual presences in Illinois. Instead, there will be only one connection between Metricom and an Internet Service Provider Network that contracts to resell Metricom's service. The connection between Metricom and the Internet Service Provider Network takes place through a router and a dedicated line at the Network Interface Facility ("NIF"). (Tr. 31, 32.) There is no need for the Internet Service Provider Network to establish numerous connections. Moreover, the connection between that router and the Internet Service Provider Network need not be in Illinois. Some Internet Service Provider Networks may choose to have a single nationwide connection located in another state. Due to the fact that Metricom has developed a national network, it will be able to accommodate such Internet Service Provider Networks and provide connections between the NIF at a single point somewhere in the United States.

This difference between Metricom's connection to its Internet Service Provider Networks and the typical dial-up connection between an end-user and an ISP is

important if the Commission believes that it should examine this segment of the end-user's communication in determining jurisdiction. If the Commission takes this approach, such communications would be relevant only where the end-user is located in the same state as the equipment of their pre-selected Internet Service Provider Network and, because of Metricom's ability to connect at a single location, many communications between end-users and their Internet Service Provider Network will cross state lines.

As we have previously discussed, another difference between Metricom's service and dial-up service is that the end-user has an always-on wireless connection to the Internet. There is no call initiation, call termination or use of the public switched network. Instead, the Metricom Ricochet² user turns on his/her computer clicks on the Ricochet icon and is connected to the Internet through his/her pre-selected Internet Service Provider Network utilizing Internet Protocol addressing. (Metricom Ex. 1, Daniel Direct, pp. 3-5.) End-users do not dial a number or in any way direct a connection. (Id.) The Ricochet² wireless modem sends a radio signal to a nearby pole-top radio, which in turn, connects to a Wired Access Points ("WAP"), which connects to a NIF, which then routes traffic over a private network to the end-user's pre-selected Internet Service Provider Network. (Id.) Thus, even when one disregards the FCC's end-to-end analysis, the Metricom Ricochet² network service does not meet the Public Utilities Act definition of a telecommunications carrier -- a company engaged in "the provision of telecommunications services between points within the State which are specified by the user." 220 ILCS 5/13-202.

C. The Commission Should Give Metricom The Same Regulatory Treatment Given To Cable Modem Providers.

In determining how to treat Metricom, the Commission should consider how it is treating similarly situated entities. The best analogy to Metricom's service is cable modem service. As with Metricom's service, cable modem service is provided over a network that is separate from the public switched network. As with Metricom's service, cable modem service is always on. Thus, in both cases there is no call initiation or termination and users are always connected to the Internet when their computers are on.

If the Commission determines that Metricom's Ricochet² service must be regulated under Article 13 of the Act, then the Commission must regulate the services of all cable modem providers. The failure to do so would raise serious issues of regulatory consistency and equal protection. Past and present providers of cable modem service in Illinois include Ameritech New Media, TCI, Media One, AT&T and 21st Century. We would ask the Commission to take notice that none of these providers has obtained a certificate to provide their cable modem services and none of these providers has filed tariffs for their cable modem services. Metricom questions whether any of these providers has reported cable modem service as intrastate service for purposes of payment of their Public Utility Gross Receipts Tax or the Telecommunications Excise Tax. Metricom should not be treated any differently.

There will also be serious regulatory impacts if the Commission decides to regulate all providers of access to the Internet over networks separate from the public switched network. Is this Commission willing to take complaints from customers on the provision of cable modem service or Metricom's Ricochet² service for not only

typical consumer issues such as billing but also slower than expected transmission speeds and hacker or computer virus-related issues? Always-on Internet access services provide a whole new range of issues that this Commission has never faced before. Neither the Public Utilities Act nor the Commission's regulations address such issues. Thus, the Commission has no standards against which to measure the Internet access performance of companies such as cable modem providers or Metricom.

**D. The Recent 9th Circuit Court Of Appeals
Decision In AT&T v. City Of Portland
Clearly Supports The Proposition That
Metricom's Provision Of Internet Access
Is An Interstate Service, Not Subject To State Regulation.**

The decision of the 9th Circuit Court of Appeals in AT&T v. City of Portland, Case No. 99-35609, 2000 WL 796708 (9th Cir., June 22, 2000) should remove all doubt that Metricom's provision of access to the Internet Service Provider Networks is an interstate service. In that case, the City of Portland refused to consent to the transfer of the cable franchise of TCI to AT&T unless AT&T agreed to open its cable modem facilities to other Internet Service Providers. AT&T wished to offer its customers cable modem access exclusively through @Home, its own ISP service. The Court found that the cable modem service was not a cable service as defined by 47 U.S.C. 522(6). Slip Op. at 10-11. Thus, Portland cannot regulate AT&T through its franchising authority.

However, for purposes of this case, the most important findings of the Court are its analyses of the cable modem product from the perspective of the Telecommunications Act.

Like other ISPs, @Home consists of two elements: a “pipeline” (cable broadband instead of telephone lines), and the Internet service transmitted through that pipeline. However, unlike other ISPs, @Home controls all of the transmission facilities between its subscribers and the Internet. To the extent @Home is a conventional ISP, its activities are of an information service. However, to the extent that @Home provides its subscribers Internet transmission over its cable broadband facility, it is providing a telecommunications service as defined in the Communications Act.

Slip Op. at 13-14.

The Court noted that 47 U.S.C. 541(b)(3) “expresses both an awareness that cable operators could provide telecommunications services, and an intention that those telecommunications services be regulated as such, rather than as cable services.” Slip Op. at 15. This Commission may think that this finding opens the door to local regulation of the “pipeline” of Metricom as well as cable television operators. Later language in the Court’s opinion rejects that possibility. The Court found that the FCC, not the states, has the jurisdiction over these services.

Thus far, the FCC has not subjected cable broadband to any regulation, including common carrier telecommunications regulation. We note that the FCC has broad authority to forbear from enforcing the telecommunications provisions if it determines that such action is unnecessary to prevent discrimination and protect consumers, and is consistent with the public interest. See 47 U.S.C. 160(a). Congress has reposed the details of telecommunications policy in the FCC, and we will not impinge on its authority over these matters.

Slip Op. at 17.

Metricom’s status is similar to that of the cable modem providers in the Portland case. The FCC has the jurisdiction to regulate its service and has chosen not to do so. Under the 9th Circuit’s ruling, this Commission would have no authority to

regulate either cable modem services or the services of Metricom because such services are within the exclusive jurisdiction of the FCC.

Finally, it should be noted that the Court approved of the FCC's finding in GTE-DSL that it has jurisdiction over DSL services. "Consistent with our view, the FCC regulates DSL service, a high-speed competitor to cable broadband, as an advanced telecommunications service subject to common carrier obligations. See GTE Operating Companies Tariff No. 1, 13 F.C.C. Rcd. 22466 (1998)" Slip Op. at 16. Thus, the Court supported the end-to-end analysis of the FCC that found that DSL facilities connecting a modem user to an ISP are an interstate service. An end-to-end jurisdictional analysis of Metricom's service must reach a similar conclusion.

II. If The Commission Finds That Metricom Is A Telecommunications Carrier Under The Act, Then The Commission Should Grant Metricom's Request For A Certificate Of Service Under Section 13-401.

A. Metricom Does Not Provide Exchange Or Interexchange Services.

If the Commission finds that Metricom is a telecommunications carrier under the Act, then it must determine the type of certification to which Metricom is entitled. The Commission may grant Metricom a certificate under three alternative provisions:

- 1) a certificate of service authority pursuant to Section 13-401;
- 2) a certificate of interexchange service authority pursuant to Section 13-403; or
- 3) a certificate of local exchange service authority pursuant to Section 13-405.

The record overwhelmingly demonstrates that Metricom does not provide either local exchange telecommunications service or interexchange telecommunications service. Accordingly, the Commission's only reasonable alternative is to grant Metricom a certificate of service authority pursuant to Section 13-401.

The Act's definition of an "exchange" clearly contemplates telecommunications service provided through the publicly switched network. The Act provides in relevant part:

"Exchange" means a geographical area for the administration of telecommunications services, established and described by the tariff of a telecommunications carrier providing local exchange telecommunications service, and consisting of one or more contiguous central offices, together with associated facilities used in providing such local exchange telecommunications service. ...

220 ILCS §13-206. In a traditional telephone call, an exchange is an integral part of how the service is administered. This system of geographical exchanges and call origination and termination are the determining factors for the entire pricing structure for communications over the public switched network.

This system of exchanges is absolutely irrelevant to Metricom's service. As both Mr. Daniel and Mr. Schellman testified, Metricom's Ricochet² service does not rely on the publicly switched network. (Metricom Ex. 1, Daniel Direct, p. 6; Metricom Ex. 2, Schellman Direct, pp. 44, 45.) The record contains a step-by-step explanation of the flow of data during a Metricom user's Internet session. None of the steps involve a switched communication. When a Metricom Ricochet² user turns on his/her computer and clicks the Ricochet icon, his/her modem sends a radio signal to a nearby pole-top radio. (Metricom Ex. 1, Daniel Direct, p. 3.) That pole-top radio communicates with a WAP, which, in turn, transmits data through the T1 frame-relay

connection to a NIF. (Id. at 5.) The NIFs route the traffic via Internet Protocol addressing through the pre-selected Internet Service Provider Network to the Internet. (Id.)

Two things are abundantly clear from this step-by-step analysis. First, there is no "call" being made. (Tr. 18, 19.) There is no call initiation, no call termination, no call switching, and no use of the public switched network. Rather, the service is always on. (Id.) Theoretically, a Metricom user can stay connected to the Internet indefinitely because the nature of the service is such that it is not timed in any way. Accordingly, determinations of call initiation, call duration and call termination -- concepts that are at the core of the reason for exchanges -- are absolutely irrelevant to Metricom's service.

Second, the geographical location of a Metricom user is irrelevant, as long or he or she stays within the Metricom Ricochet service area. As Mr. Schellman testified, a Metricom user can be mobile, moving throughout the service area, without affecting the quality or pricing of his service. (Tr. 48.) Therefore, where an exchange begins or ends has no bearing on the Metricom user.

Moreover, because exchanges have no bearing on Metricom's Ricochet² service, its service does not fall within the Act's definitions of exchange or interexchange service, which also refer to "switched telecommunications services:"

"Local Exchange Telecommunications Service" means telecommunications service between points within an exchange, as defined in Section 13-206, or the provision of telecommunications service for the origination or termination of switched telecommunications services.

220 ILCS §5/13-204 (emphasis supplied).

"Interexchange Telecommunications Service" means telecommunications service between points in two or more exchanges.

220 ILCS §5/13-206 (emphasis supplied).

Neither of these definitions apply to Metricom's Ricochet² service. As set forth above, the record overwhelmingly demonstrates that Metricom's Ricochet² service does not use the publicly switched network. The above definitions of local exchange and interexchange service do not apply because there is no call "origination or termination" in Metricom's Ricochet² service and the geographical location of the Ricochet² user is not important. The record is unequivocal on this point. Staff introduced no evidence to refute Metricom's evidence on this point.

B. A Plain Reading Of The Act Allows Section 13-401 Certification For Carriers That Are Telecommunications Carriers, But Do Not Provide Exchange Or Interexchange Services.

If the Commission finds that Metricom is a telecommunications carrier under the Act, the plain language in Section 13-401 authorizes the Commission to grant Metricom certificate of service authority. There is nothing in the Act that indicates that facilities-based carriers must obtain certificates under either Sections 13-403 or 13-405. Section 13-401 simply requires telecommunications carriers to obtain a certificate of service authority in order to conduct business in Illinois. While Section 13-401 further provides that carriers wishing to provide interexchange or local exchange services must obtain certificates under Sections 13-403 and 13-405, it does not preclude carriers that provide neither of those services from obtaining a more general certificate of service authority that reflects the type of service being provided.

Section 13-401(a) of the Act provides, in relevant part, as follows:

No telecommunications carrier not possessing a certificate of public convenience and necessity or certificate of authority from the Commission at the time this Article goes into effect shall transact any business in this State until it shall have obtained a certificate of service authority from the Commission pursuant to the provisions of this Article.

No telecommunications carrier offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a Certificate of Interexchange Service Authority pursuant to the provisions of Section 13-403. No telecommunications carrier offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a Certificate of Exchange Service Authority pursuant to the provisions of Section 13-405.

220 ILCS 5/13-401(a).

Thus, if the Commission finds that Metricom is a telecommunications carrier pursuant to the Act and finds that Metricom possesses the other necessary qualifications to provide its wireless Internet access service in Illinois, it must grant Metricom a certificate of service authority under Section 13-401. This section provides the only means by which the Commission can certify Metricom. If Metricom were to provide interexchange service, it would have to obtain a certificate under Section 13-403. If Metricom were to provide local exchange service, it would have to obtain a certificate under Section 13-405. Metricom provides neither of these services and, therefore, a certificate of service authority pursuant to Section 13-401 is the Commission's only option or the Commission will effectively be denying Metricom its right to provide services in Illinois.

Staff's argument that under 13-401, a telecommunications carrier must be either a local exchange carrier or an interexchange carrier is unreasonable. Staff's

limited view completely ignores carriers that may be telecommunications carriers under the very broad definition found Section 13-202 of the Act, but do not provide services that constitute exchange or interexchange services. Staff's reading of the Act would make Section 13-401 inconsistent with Sections 13-202 and 13-203.

A plain reading of the definitions of a telecommunications carrier and a telecommunications service set forth in Sections 13-202 and 13-203 of the Act indicates that the "universe" of telecommunications carriers goes beyond exchange and interexchange services. For example, the definition of "telecommunications service" set forth in Section 13-203 contains a reference to transmittal of information "with or without the benefit of any closed transmission medium including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) used to provide such transmission..." 220 ILCS § 13-203 (emphasis supplied). The obvious intent of the legislature is to include almost any type of information transmittal in this definition, regardless of the transmission medium.⁶ If the legislature wanted to state that telecommunications service only meant local exchange or interexchange services, it presumably would have stated so.

Statutes must be interpreted and applied in a holistic manner, which requires the Commission to consider the entire act. See Borg V. Village of Schiller Park, 111 Ill.App.3d 653, 657, 444 N.E.2d 631, 634 (1st Dist 1982) (citing 2A Sutherland,

⁶ As set forth in great detail in this brief, Metricom is of the opinion that it is not a telecommunications carrier under Section 13-202 because it does not provide telecommunications service between points within the State of Illinois and, additionally, its services are not provided for public use. Metricom does not dispute that its Ricochet² system transmits information within the very broad definition "Telecommunications Service" set forth in Section 13-203.

Statutes & Statutory Construction § 46.05, at 56 (4th ed. 1973)). Accordingly, when the sections of the Act are viewed together, it is apparent that the broad language in Section 13-203 allows for a “universe” of options for a telecommunications carrier, which is greater than Staff’s interpretation based on Section 13-401 that the only options for issuing a certificate are either as a local exchange or an interexchange service provider.

The appellate courts have repeatedly acknowledged that the Commission is entitled to substantial deference to interpretation of the Act because the Commission is charged with its administration and enforcement. Ameropan Oil Corp. v. ICC, 298 Ill. App. 3d 341, 346, 698 N.E.2d 582, 585 (1st Dist. 1998); Central Illinois Public Service Co. v. Pollution Control Bd., 116 Ill. 2d 397, 405, 507 N.E.2d 819, 822 (1987) (“Courts will give substantial deference to the interpretation of a statute by the agency charged with its administration and enforcement”), citing Illinois Consolidated Telephone Co. v. ICC, 95 Ill. 2d 142, 152, 447 N.E.2d 295, 300 (1983); Peoples Gas, Light & Coke Co. v. ICC, 175 Ill. App. 3d 39, 52, 529 N.E.2d 671, 680 (1st Dist. 1988) (“Given the broad statutory delegation of authority to the Commission, a court must rely on the Commission’s interpretation of the statute, if there is a reasonable debate as to its meaning”); Dietz v. Property Tax Appeal Board, 191 Ill. App. 3d 468, 476, 547 N.E.2d 1367, 1372 (4th Dist. 1989) (“Where the question presented is ‘doubtful’ or fairly debatable, the administrative interpretation is often controlling”), appeal denied, 131 Ill. 2d 558, 553 N.E.2d 394 (1990); and Chicago & North Western Transportation Co. v. ICC, 230 Ill. App. 3d 812, 815-16, 596 N.E.2d 42, 45 (1st Dist. 1992).

Accordingly, if the Commission is of the opinion that Section 13-401 of the Act is not entirely clear, it is within the Commission’s authority and discretion to interpret

the Act in a manner that avoids the absurd and unreasonable result of labeling Metricom an exchange or interexchange carrier. A well-known maxim of statutory construction provides that a statute must be interpreted reasonably and not so as to cause absurd results. See, e.g., Baker v. Miller, 159 Ill. 2d 249, 262, 636 N.E.2d 551, 557 (1994) ("The rule, as generally stated, provides that in construing statutes, courts presume that the General Assembly, in passing legislation, did not intend absurdity, inconvenience or injustice."); Actunes v. Sookhakitch, 146 Ill. 2d 477, 486, 588 N.E.2d 1111, 1115 (1992) ("Statutes should be construed so as to give them a reasonable meaning and in the most beneficial way to prevent absurdity or hardship.") In addition, statutes must be reasonably construed, so as to be applied in a practical and common-sense manner. Dugan v. Berning, 11 Ill.2d 353, 357 (1957). When absurd consequences will result from a particular construction of a statute, that construction should be avoided. Illinois National Bank v. Chegin, 35 Ill.2d 375, 378 (1966).

Reading the Act as requiring a telecommunications carrier to be either a local exchange or interexchange carrier would be contrary to the principles of statutory construction. Such cramped and unreasonable reading of the Act ignores the substantial deference accorded to the Commission to interpret a statute that the agency is charged to implement.

For the Commission to grant Metricom a Section 13-401 certificate would be consistent with the plain meaning of the Act. The Commission should reject Staff's erroneous analysis that would treat Metricom as an exchange carrier or interexchange carrier contrary to the evidence presented and which would be an unreasonable result. If the Commission finds that Metricom is a telecommunications carrier under

the Act, then it should grant Metricom a certificate of service authority pursuant to Section 13-401.

C. While Metricom Is Not A Cellular Service Provider, Metricom's Service Is Similar To Cellular And A Certificate Of Service Authority Pursuant To Section 13-401 Is Appropriate.

To date, Section 13- 401 has only been used for the issuance of certificates of service authority for cellular providers. Section 13-401(a) provides, in part, as follows:

Notwithstanding sections 13-403, 13-404, and 13-405, the Commission shall approve a cellular radio application for a Certificate of Service Authority without a hearing upon a showing by the cellular applicant that the Federal Communications Commission has issued to it a construction permit or an operating license to construct or operate a cellular radio system in the area as defined by the Federal Communications Commission, or portion of the area, for which the carrier seeks a Certificate of Service Authority.

220 ILCS 5/13-405(a)

While the above quoted language provides an exception for cellular carriers having a CMRS license from the FCC with respect to hearings, the language in this section does not limit a certificate issued pursuant to Section 13-401 to cellular carriers. The language does imply that a telecommunications carrier not having such a license from the FCC will require a hearing prior to the issuance of a certificate by the Commission.

The testimony presented in this docket indicates that Metricom's Ricochet² service is similar to cellular service. (Tr. 60-62.) In a manner similar to cellular telephone service, a Metricom user communicates wirelessly with the closest pole-top radio in his/her area. (Id.) Each pole-top radio provides coverage for a "cell" in a manner that is very similar to cellular telephones. (Id.) As a user of Metricom service

travels, the Ricochet² network continuously monitors the radio communication between the user's modem and the pole-top radio. (Id.) As the Metricom user becomes closer to another pole-top radio, the network does a "handoff" to the new pole-top radio. (Id.) This is the same basic concept behind a cellular telephone network. (Id.)

The Act does not specifically define a "cellular radio system" and while Metricom operates under Part 15 of the FCC's Rules, Metricom is not considered a commercial mobile radio service ("CMRS") under federal law. This is primarily due to the fact that the FCC has stated that Part 15 devices are not CMRS. However, it is clear that Metricom's system has many of the attributes of CMRS, and Metricom's wireless Ricochet² service can generally be described as a radio communication service carried on between mobile stations or receivers and land stations. In addition, Metricom holds several FCC Part 27, WCS licenses used as part of the wireless Ricochet² network. One such WCS license will provide coverage for a portion of southeastern Illinois.

The similarity between Metricom's Ricochet² service and cellular service provides additional support for the issuance of a certificate of service authority pursuant to Section 13-401.

D. Metricom Possesses The Requisite Financial, Technical And Managerial Abilities To Provide Its Internet Access Service In The State Of Illinois.

Sections 13-403 and 13-405 set forth certain requirements for the grant of certificates of service. Although Metricom is requesting that it receive a certificate of

service under section 13-401 of the Act, the company has provided the proof required in order to obtain certificates of local exchange service and interexchange service.

Metricom introduced evidence in the first phase of Docket 99-0138 that indicates it possesses the requisite financial resources to operate its Internet access service in the State of Illinois. Ms. Judith Marshall of the Commission's Telecommunications Staff testified that Metricom meets the statutory requirement that it has financial resources to provide its services. (Phase I of Docket 99-0138, Tr. 96-97).

Furthermore, Mr. Schellman testified at the June 2, 2000, hearing that subsequent to the filing of the Petition in Docket 99-0138:

(t)here has been a significant investment on the part of WorldCom, Vulcan Ventures; a secondary stock offering culminating in approximately 1.4 to 1.6 billion dollars of investment into the company to provide for the nationwide roll-out for Ricochet² as well as ongoing operations.

(Tr. 60.) Mr. Schellman testified that, accordingly, Metricom's financial condition has improved significantly as a result of this investment. (Id.)

In the first phase of the proceeding in Docket 99-0138, Mr. Stephens testified that Metricom has assembled a group of executives and employees with extensive experience in the telecommunications and information technology industries. Metricom is already operating its Ricochet service in several cities and has thus developed the experience necessary to provide its service in Illinois.

Ms. Marshall agreed that Metricom also had the technical and managerial abilities to operate its business in the State of Illinois. (Phase I of Docket 99-0138, Tr. 98-99.)

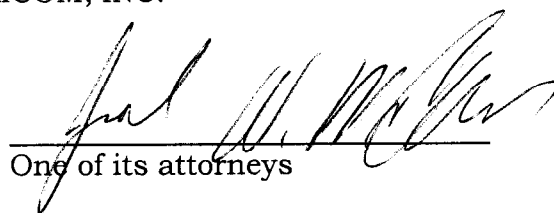
CONCLUSION

Metricom wishes to provide Illinois citizens with state-of-the-art, always-on, wireless connectivity to the Internet. Given the nature of Metricom's services, this Commission should either enter an order granting Metricom declaratory relief and finding that Metricom does not need a certificate to provide its services, or in the alternative, should the Commission find that Metricom is a Telecommunications Carrier under the Act, grant the company a certificate of service authority pursuant to Section 13-401 of the Public Utilities Act, with the requested waivers and findings of inapplicability of statutory and regulatory requirements as requested in Metricom's application.

Respectfully submitted,

METRICOM, INC.

By:

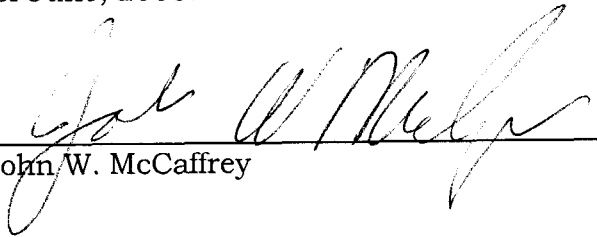

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CERTIFICATE OF SERVICE

I, JOHN W. McCAFFREY, do hereby certify that a copy of the foregoing Initial Brief of Metricom, Inc. was served upon all parties on the attached Service List by the method so indicated this 30th day of June, 2000.



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